

Memorandum

To: Lori Cora and Eric Blischke, U.S. Environmental Protection Agency
From: Jennifer Peers, Stratus Consulting Inc.
Date: 5/2/2008
Subject: Evaluation of Lamprey in Portland Harbor Ecological Risk Assessment

This memorandum contains comments provided by Stratus Consulting on behalf of the Confederated Tribes of the Grand Ronde Community of Oregon, the Nez Perce Tribe, the Confederated Tribes of Siletz Indians of Oregon, the Confederated Tribes of the Umatilla Indian Reservation, and the Confederated Tribes of the Warm Springs Reservation of Oregon (the Tribes). Thank you for considering these comments.

The following comments pertain to the memorandum from the Lower Willamette Group (LWG) Legal Committee to the LWG Executive Committee regarding “Pacific Lamprey,” dated March 4, 2008 (the Memorandum).

The Memorandum provides a legal evaluation of the question “Do EPA and Oregon rules and guidance direct EPA to assess risk to Pacific Lamprey on an individual, as opposed to a population, basis?” The Memorandum concludes that it is not directed (i.e., required) to consider Pacific lamprey at an individual level. However, the Memorandum does not conclude that the U.S. Environmental Protection Agency (EPA) may not do so. EPA has the latitude to evaluate risk to species on an individual basis. Further, the Memorandum failed to consider several important facts.

First, Native American tribes regard Pacific lamprey (called *ksuyas* or *asum* in the native language of the mid-Columbia Plateau tribes) as a highly valued resource and cultural icon (Close, 2002). Pacific lamprey have cultural, religious, and spiritual importance to the Tribes, are used as a medicinal resource, and are an important subsistence food for tribal members. They are a part of the Columbia River Basin tribal culture and are collected during seasonal harvests as part of ceremonies and celebrations. Tribal members already are affected by the declines in the Pacific lamprey population that have already occurred; some traditional fishing areas are now barren, and overall lamprey harvest levels have been reduced. Therefore, Pacific lamprey are an especially important tribal cultural resource, and this importance needs to be taken into account in the ecological risk assessment. The most appropriate way to include the cultural importance of the Pacific lamprey is conduct the risk assessment at the individual level.

Second, as the Memorandum points out, Pacific lamprey have also been identified as “vulnerable” on the 1997 Oregon State Sensitive Species List, and the U.S. Fish and Wildlife Service is coordinating a conservation plan for the species. Populations of Pacific lamprey have been declining in the Columbia River Basin and have resulted in a loss of tribal culture, loss of fishing opportunities in traditional fishing areas, and farther travel for tribal members to harvest

this traditional resource. The need to assess risks at the individual organism level for species that are listed as threatened or endangered is driven in part by the increased vulnerability of these species because of their rarity, and the subsequent need to protect each remaining individual to sustain the population and genetic diversity (U.S. EPA, 1989). The Pacific lamprey population clearly is vulnerable, and the fact that a conservation plan is being prepared demonstrates the importance of protecting each individual lamprey. Therefore, to be fully protective, the ecological risk assessment must assess risks to Pacific lamprey at the individual level.

The guidance from EPA to date has been consistent regarding Pacific lamprey. The “Problem Formulation for the Baseline Ecological Risk Assessment at the Portland Harbor Site” provided by EPA to the LWG on February 15, 2008 indicated that Pacific lamprey is a special-status species and will be evaluated at the individual level. At the April 23, 2008 Technical meeting, Burt Shephard and Eric Blischke of EPA reiterated that lamprey, salmon, and bald eagle will be evaluated in the ecological risk assessment at the individual level. EPA should not change its position now simply because the LWG objects.

For the reasons described in this memorandum, we request that EPA continue to direct the LWG to evaluate Pacific lamprey on an individual basis.

References

Close, D. 2002. Ecological and Cultural Importance of a Species at Risk of Extinction, Pacific Lamprey. Project No. 1944-02600, BPA Report DOE/BP-00005455-4.

U.S. EPA. 1989. Ecological Assessment of Hazardous Waste Sites: A Field and Laboratory Reference. U.S. Environmental Protection Agency, Environmental Research Laboratory, Corvallis, OR. EPA/600/3-89/013. March.